



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

PRECISION PAIN CONSULTANTS  
4613 BEE CAVES ROAD SUITE 105  
AUSTIN TEXAS 78746

DWC Claim #:  
Injured Employee:  
Date of Injury:  
Employer Name:  
Insurance Carrier #:

#### **Respondent Name**

AMERICAN HOME ASSURANCE CO

#### **Carrier's Austin Representative Box**

Box Number 19

#### **MFDR Tracking Number**

M4-11-3414-01

#### **MFDR Date Received**

June 7, 2011

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "Treating doctor approval not required."

**Amount in Dispute:** \$162.96

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Please note in box 17 on Form CMS-1500, the referral physician is noted as Fox Douglas. However, the attached DWC-53 indicates the claimant was approved on 10/24/2007 to change treating doctor from Viet Tran M.D. to Donald McKinley, M.D. The form CMS-1500 incorrectly notes Fox Douglas as the referral doctor, which is inconsistent with the form DWC-53. NO additional allowance is recommended at this time."

**Response Submitted by:** Hoffman Kelley

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 10, 2011	99214	\$162.96	\$0.00

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. Texas Labor Code at §408.021 sets out the law for entitlement to medical benefits.
3. 28 Texas Administrative Code §180.22 sets out the benefit regulation for health care provider roles and responsibilities.
4. 28 Texas Administrative Code §133.2 sets out the definitions for Chapter 133.

5. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated March 29, 2011

- 165 – Payment denied/reduced for absence of, or exceeded referral
- 5066 – Not treating doctor approved treatment

Explanation of benefits dated May 20, 2011

- 165 – Payment denied/reduced for absence of, or exceeded referral
- 193 – Original payment decision is being maintained. This claim was processed properly the first time
- 1014 – The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
- 5066 – Not treating doctor approved treatment
- 5081 – Reduction or denial of payment resulting after a reconsideration was completed.

### **Issues**

1. Did the approved treating doctor (Donald McKinely, D.C.) refer the injured employee for treatment to Dr. Mihnea Dumitrescu?
2. Is the requestor entitled to reimbursement?

### **Findings**

1. Texas Labor Code at §408.021(c) states “(c) Except in an emergency, all health care must be approved or recommended by the employee's treating doctor.”
2. Division rule at 28 Texas Administrative Code §180.22(c) states “(c) The treating doctor is the doctor primarily responsible for the efficient management of health care and for coordinating the health care for an injured employee's compensable injury. The treating doctor shall: (1) except in the case of an emergency, approve or recommend all health care reasonably required that is to be rendered to the injured employee including, but not limited to, treatment or evaluation provided through referrals to consulting and referral doctors or other health care providers, as defined in this section; (2) maintain efficient utilization of health care...”
3. Division rule at 28 Texas Administrative Code §133.2(a)(4)(A)(i)(ii) defines a medical emergency as “Emergency--Either a medical or mental health emergency as follows: (A) a medical emergency is the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in: (i) placing the patient's health or bodily functions in serious jeopardy, or (ii) serious dysfunction of any body organ or part...”
  - Review of the DWC Form 53 lists Donald McKinely, DC as the treating physician approved by division on October 24, 2007. The CMS 1500 submitted by the requestor lists the referring provider as Fox Douglas, M.D. No documentation was found to support that the disputed services were approved or recommended by the injured worker's treating physician. The Division concludes that the requestor has not met the requirements of Division rule at 28 TAC §180.22(c).
  - The submitted documentation does not support that the injured worker manifested symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in serious harm or jeopardy to the injured worker. As a medical emergency is not supported, the disputed services required to be approved by the injured worker's treating doctor.
  - Review of the documentation submitted by the requestor finds that the requestor has not submitted documentation to support a medical emergency as defined in 28 Texas Administrative Code §133.2.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

## ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### Authorized Signature

_____	_____	May 23, 2013
Signature	Medical Fee Dispute Resolution Officer	Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**